

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOEL B. MONTGOMERY, et al.,

Plaintiffs,

:

Case No. 3:07-cv-470

-vs-

Magistrate Judge Michael R. Merz

:

MARY L. SANDERS, et al.,

Defendants.

DECISION AND ORDER SCHEDULING DEPOSITIONS

On December 7, 2011, the Court ordered that,

The parties shall, not later than December 20, 2011, set dates for the depositions of Col. Karen A. Cleary, Emmanuel “Manny” Gomez, Jr., Gayle C. Blue-Keyes, Teresa A. Schroerluke, Col. Richard T. Egtvedt, Wes Welker, and Alan Montgomery. and file the agreed schedule of depositions with the Court. If the parties are unable to reach an agreement as to deposition dates and locations, or if the parties fail to file the schedule with this Court, the Court will order the setting of the depositions. The depositions shall take place and be completed not later than February 29, 2012.

(Decision and Order, Doc. No. 132, PageID 1871). On December 20, 2011, Defendants’ counsel reported to the Court that the parties had not reached agreement (Notice, Doc. No. 133). He reported that, having obtained dates satisfactory to Plaintiffs’ counsel, he had proposed the following schedule:

1. Teresa Schroerluke and Manny Gomez at the United States’ Attorney’s Office in Dayton, Ohio, on January 25 or 26, 2012.
2. Karen Cleary, Allen Montgomery and Gayle Blu-Keyes in Denver or Colorado Springs on February 16, 2012.

3. Wes Walker at Robins Air Force Base, Georgia, on February 22, 23, and/or 24, 2012.
4. Robert Egtvedt in Crofton, Maryland, on February 22, 23, and/or 24, 2012.

Plaintiffs' counsel responded with no objection to the dates, but with a demand that all the witnesses be produced in Dayton, Ohio (Email attachment to Doc. No. 133, PageID 1887). The Federal Rules of Civil Procedure provide broad discretion to the Court in ordering the location of depositions. Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 2112.

Considering the facts presented by the parties, it is hereby ORDERED:

1. Teresa Schroerluke and Manny Gomez will be deposed at the United States' Attorney's Office in Dayton, Ohio, on January 25, 2012.
2. Karen Cleary, Allen Montgomery, and Gayle Blu-Keyes will be deposed at the United States Air Force Academy in Colorado Springs, Colorado, on February 16, 2012. Defendants will produce Gayle Blu-Keyes without requiring any process from Plaintiffs. If Allen Montgomery is an employee of the United States Government, the United States shall produce him for deposition at the expense of the Government. If Allen Montgomery is not an employee of the United States Government, Plaintiff must procure his attendance by subpoena. Plaintiffs must obtain the attendance of Karen Cleary by subpoena.
3. Wes Walker will be deposed at Robins Air Force Base, Georgia, on February 22, 2012. The Government shall produce him for deposition without expense to Plaintiffs.
4. Richard Egtvedt will be deposed at a federal facility to be designated by Defendants' counsel forthwith as near as possible to Crofton, Maryland, on February 23, 2012. Plaintiffs must obtain his attendance by subpoena.

December 20, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge